



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

999 18TH STREET- SUITE 300

DENVER, CO 80202-2466

Phone 800-227-8917

<http://www.epa.gov/region08>

Ref: 8ENF-W-NP

CERTIFIED MAIL 7004 1350 0001 5668 0464

RETURN RECEIPT REQUESTED

MAR 29 2006

Jim Rearden
Public Works Director
City of Great Falls
P.O. Box 5021
Great Falls, MT 59403

Re: Order for Compliance under sections
308(a) and 309(a) of the Clean Water Act

Dear Mr. Rearden:

Enclosed is a United States Environmental Protection Agency Region 8 ("EPA") Order for Compliance ("Order") issued to the City of Great Falls ("City") for alleged violations of the City's Publicly Owned Treatment Works ("POTW") Pretreatment Program. The Order specifies the nature of the violations under the Clean Water Act ("Act"), as amended, 33 U.S.C. § 1251, et seq. The authority for such action is provided to EPA under section 309(a)(3) of the Act, 33 U.S.C. § 1319(a)(3).

EPA is issuing this Order due to the City's failure to address the reoccurrence of extremely high levels of hydrogen sulfide in the city sewer. As you are aware, EPA issued a similar Order in November 2005 due to the City's failure to appropriately address hydrogen sulfide in the sewer caused by discharges from Montana Refining. The hydrogen sulfide data the City has submitted to EPA under the previous Order indicates there is a new source of hydrogen sulfide in the same sewer line, upstream of Montana Refining. At one point in February, the level of hydrogen sulfide in the sewer was more than three times that considered to be an immediate danger to life and health. EPA believes the presence of hydrogen sulfide in the sewer system at such high levels is a serious issue which must be resolved quickly to protect the health and safety of the public at large and City employees.

The Order describes the actions necessary in order for the City to achieve compliance with the Act. Furthermore, the Order requires the City to notify EPA in writing within ten (10) days whether it intends to comply with the Order.

The Act requires the Administrator of EPA to take all appropriate enforcement actions necessary to secure prompt compliance with the statute and any orders issued thereunder. Section 309 of the Act provides a variety of possible enforcement actions, including the filing of a civil or criminal action (33 U.S.C. §§ 1319(b), (c), (d), and (g)). Please be advised that the issuance of this Order does not preclude the initiation of administrative penalty proceedings or civil or criminal action in U.S. District Court under sections 309(g), (b), (d) and (c) of the Act for the violations cited herein. Please review the Order carefully. Failure to comply with the requirements of the Order shall constitute a violation of the Order.

If you have any questions regarding this letter, the enclosed Order, or any other matters pertinent to the City's compliance with the Act, the most knowledgeable people on my staff regarding these matters for legal and technical issues, respectively, are Peggy Livingston, Enforcement Attorney, at (303) 312-6858, and Colleen Gillespie, NPDES Enforcement Unit, at (303) 312-6047. They can also be reached using EPA's toll free number, (800) 227-8917.

Sincerely,



Carol Rushin
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

Enclosures

cc: John Arrigo, MDEQ
Kari Smith, MDEQ

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

2006 MAR 29 PM 4:26

IN THE MATTER OF:

The City of Great Falls
Great Falls, Montana 59403

NPDES Permit No. MT-0021920

Respondent.

) **ORDER FOR COMPLIANCE**
)
) Proceeding under Sections 309(a) and 308(a)
) of the Clean Water Act
)
) Docket No. CWA-08-2006-0022
)
)

STATUTORY AUTHORITY

This Order for Compliance (Order) is issued pursuant to section 309(a)(3) of the Clean Water Act (the "Act"), 33 U.S.C. § 1319(a)(3), which authorizes the Administrator of the United States Environmental Protection Agency ("EPA") to issue an order requiring compliance by a person found to be in violation of sections 301, 302, 306, 307, 308, 318, or 402 of the Act, or in violation of any permit condition or limitation implementing any such sections of the Act. This Order is also issued pursuant to section 308(a) of the Clean Water Act, 33 U.S.C. § 1318(a), which authorizes the Administrator of the EPA to require reports necessary to determine compliance. These authorities have been delegated to the undersigned official.

FINDINGS OF FACT

1. The City of Great Falls ("Respondent") is a "municipality" as defined by section 502(4) of the Act, 33 U.S.C. § 1362(4).
2. A municipality is a "person" within the meaning of section 502(5) of the Act, 33 U.S.C. § 1362(5).

3. Respondent owns and operates a wastewater treatment facility located at 1600 6th St. N.E., Great Falls, Montana. This facility is a publicly-owned treatment works ("POTW") as that term is defined in 40 C.F.R. § 403.3 and will be referenced in this Order as the "POTW." The POTW discharges treated wastewater into the Missouri River and has a design capacity of 21 million gallons per day (MGD) and an average daily flow of 8.86 MGD. National Pollutant Discharge Elimination System (NPDES) permit number MT-0021920 (the "NPDES Permit"), issued by the State of Montana and effective on February 1, 2000, and administratively extended, authorizes the Respondent to discharge from the POTW in accordance with section 402 of the Act, 33 U.S.C. § 1342.
4. The Missouri River is an interstate water and a "water of the United States" within the meaning of 40 C.F.R. § 122.2 and, therefore, a "navigable water" within the meaning of section 502(7) of the Act, 33 U.S.C. § 1362(7).
5. Wastewater is a "pollutant" within the meaning of section 502(6) of the Act, 33 U.S.C. § 1362(6).
6. According to 40 C.F.R. § 403.8(a), "[A]ny POTW (or combination of POTWs operated by the same authority) with a total design flow greater than five (5) MGD and receiving from Industrial Users pollutants which Pass Through or Interfere with the operation of the POTW or are otherwise subject to Pretreatment Standards will be required to establish a POTW Pretreatment Program unless the NPDES State otherwise assumes the responsibility."

7. The State of Montana is an "NPDES State," because EPA has approved the State of Montana's NPDES program pursuant to section 402(b) of the Act, 42 U.S.C. § 1342(b). The State of Montana has neither applied for nor received EPA approval of its pretreatment program; therefore, at all times relevant to this Order, EPA has been and continues to be the "Approval Authority" within the meaning of 40 C.F.R. § 403.3(c).
8. EPA approved Respondent's Pretreatment Program on November 5, 1985, at which time Respondent became the "Control Authority" within the meaning of 40 C.F.R. § 403.12(a).
9. Pursuant to 40 C.F.R. § 403.8(f)(2), and part III, section I.1.f the NPDES Permit, Respondent, as the "Control Authority," is responsible for ensuring that Industrial Users (defined in 40 C.F.R. § 403.3) discharging to the POTW comply with all Pretreatment Standards and Requirements (also defined in 40 C.F.R. § 403.3).
10. International Malting Company, LLC ("International Malting") is a barley malt manufacturing plant (standard industrial classification 2083).
11. International Malting has been discharging process wastewater to the POTW since November 2, 2005 or earlier.
12. International Malting is an "Industrial User" within the meaning of 40 C.F.R. § 403.3(h), and a "Significant Industrial User" as defined at 40 C.F.R. 403.3(t).
13. International Malting has been discharging to the sewer line, or a force main connected to the sewer line, upstream of the discharge of Montana Refining Company, another Industrial User.

14. Pursuant to 40 C.F.R. § 403.8(f)(5), the ERP and Part III, sections I.1.e & i of the NPDES Permit, the Respondent is required to enforce all applicable pretreatment standards and requirements and obtain remedies for noncompliance by any Industrial User discharging to the POTW.
15. On November 22, 2005, following reports of elevated levels of hydrogen sulfide, a toxic gas, in the sewer line (which in itself is part of the POTW) leading to the Respondent's treatment plant, EPA Region 8 issued an Order for Compliance to the Respondent, directing the Respondent, among other things, to sample hydrogen sulfide levels in the sewer line into which Montana Refining Company discharges and to submit a report to EPA describing actions proposed and/or taken to address the violations cited in that order. (See Order for Compliance No. CWA-08-2006-0002, amended February 10, 2006.)
16. Also on November 22, 2005, EPA Region 8 issued an Order for Compliance to Montana Refining Company (and to two other related companies) for discharging substances which produce hydrogen sulfide. The Order directed Montana Refining Company, among other things, to monitor its discharge daily for hydrogen sulfide, flow, and pH and weekly for phenolic compounds, biochemical oxygen demand, chemical oxygen demand, total suspended solids, total chromium, hexavalent chromium, oil and grease, and ammonia as nitrogen. This order also directed Montana Refining Company to submit a report to EPA and the City of Great Falls describing the cause of the hydrogen sulfide in the sewer system. (See Order for Compliance No. CWA-08-2006-0003, amended December 27, 2005 to provide for daily monitoring of hydrogen sulfide rather than sulfides.)

17. The monitoring data Respondent submitted to EPA has indicated that there is a possible second, upstream source of hydrogen sulfide in the sewer line leading to the Respondent's treatment plant in a concentration that has posed an acute risk to worker health. The hydrogen sulfide data are included in Appendix A. These discharges have been in violation of 40 C.F.R. § 403.5(b)(7), which prohibits the discharge of any pollutant which will result in the presence of toxic gases in the POTW in a quantity which may cause acute worker health and safety problems.
18. The hydrogen sulfide in the sewer system has resulted in human health impacts. At least one City employee has reported headaches lasting as much as 18 hours after sampling for hydrogen sulfide along this sewer line. The symptoms of short-term exposure to hydrogen sulfide gas include respiratory irritation, difficulty breathing, headaches, and nausea.
19. Pursuant to 40 C.F.R. § 403.8(f)(2)(vi) and Part III, section I.1.d of the NPDES Permit, the Respondent is required to develop and implement procedures to investigate instances of noncompliance with Pretreatment Standards and Requirements. Therefore, Respondent is required to investigate any actions by International Malting and/or other Industrial Users that may have caused or be causing the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
20. Respondent has not adequately investigated the causes of any hydrogen sulfide in the sewer line.

VIOLATION

21. The Respondent's failure to investigate the source of hydrogen sulfide in the sewer line and determine the compliance of Industrial Users with Pretreatment Standards and Regulations constitutes a violation of 40 C.F.R. § 403.8(f)(2)(vi) and Part III, section I.1.d of the NPDES Permit.

ORDER

The Respondent is ordered to perform the following actions:

22. Upon receipt of this Order, Respondent shall immediately take all action necessary to investigate the cause of hydrogen sulfide in the sewer system and otherwise implement its approved Pretreatment Program properly.
23. Beginning immediately, Respondent shall sample three times per week for hydrogen sulfide in at least manholes 4049, 4041, and 4027 until notified by EPA that the sampling schedule is to change or may cease. Sample results will be emailed to EPA weekly. Results for each month will be mailed to EPA by the 15th day of the following month along with the certification in paragraph 30. If at any time the concentration of hydrogen sulfide in the sewer line exceeds 10 parts per million (ppm), Respondent will immediately notify EPA and all Industrial Users discharging into the sewer line via telephone.
24. Within ten (10) days of receipt of this Order, the Respondent shall give written notice to EPA of its intent to comply with the requirements of this Order.

25. Within ten (10) days of receipt of this Order, Respondent shall submit a plan to EPA describing the actions proposed and/or taken determine the cause of hydrogen sulfide in the sewer line. This plan shall include specific dates for the actions to be taken. In no case should execution of the plan exceed fourteen (14) days. The plan should include the following at a minimum:

- a. A sewer map showing the sewer line that includes manholes 4049, 4041, and 4027, the sewer line to which International Malting discharges, and the force main downstream of International Malting. The map should indicate the name and location of discharge of each Industrial User which discharges to the sewer lines and/or force main;
- b. An evaluation of potential for public exposure to hydrogen sulfide including a list of any connections to the sewer lines in question, domestic or commercial, not included in part a. The evaluation should also consider risks to the public due to hydrogen sulfide venting from manholes on this sewer line.
- c. Wastewater sampling for sulfides and air testing for hydrogen sulfide at the point where the force main downstream from International Malting enters the sewer line that includes manholes 4049, 4041, and 4027. If this point is not accessible, the sewer line should be sampled upstream and downstream of the force main at the closest accessible points.
- d. For International Malting and each industrial facility listed in part a, wastewater sampling for sulfides and air testing for hydrogen sulfide should occur at the sewer outfall and the point where the discharge from the outfall enters the force main (if different from the sewer outfall);
- e. An investigation of any other potential causes of hydrogen sulfide in the sewer line. At a minimum, conduct a review of the operation of the force main downstream from International Malting which enters the sewer line that includes manholes 4049, 4041, and 4027. Determine if the main is usually full, how often the pump runs, and the holding time of sewage in the main;
and

- f. Appropriate health and safety training and personal protective equipment for all employees and contractors who may reasonably be expected to come into contact with the hydrogen sulfide.

26. Within fourteen (14) days of completion of the plan required by paragraph 25, Respondent shall submit to EPA a report describing the results of the actions taken under paragraph 25. The report should include: the name and contact information for any consultants hired for the effort; all monitoring data; any monitoring data or information on the cause of hydrogen sulfide in the sewer not previously submitted to EPA or otherwise required by paragraph 25; the conclusion as to all causes of the hydrogen sulfide in the sewer line; an assessment of the need for additional/new monitoring of hydrogen sulfide or sulfides by industrial users; and a detailed timeline for corrective actions, including but not limited to enforcement against any Industrial Users contributing to the hydrogen sulfide in the sewer line.

27. All sampling done in compliance with this Order must be conducted in such a manner as to not endanger the life or health of those conducting the sampling.

28. Upon written notice by EPA, Respondent will submit an itemized list of all costs incurred to implement the actions specified in paragraphs 23, 25, and 26.

29. All plans, notices and reports required by this Order to be given to EPA shall be provided to:

Colleen Gillespie (8ENF-W-NP)
U.S. EPA Region 8
999 18th Street, Suite 300
Denver, Colorado 80202-2466
gillespie.colleen@epa.gov
Fax: 303-312-6409
Phone: 303-312-6047

30. All reports and information required by this Order shall include the following certification statement, to be signed and dated by an individual meeting the definition in 40 C.F.R. § 122.22(a)(3) of a principal executive officer or ranking elected official.

I hereby certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment for knowing violations.

31. Any failure to comply with the requirements of this Order shall constitute a violation of said Order and may subject Respondent to penalties as provided under the section 309 of the Act, 33 U.S.C. § 1319.

32. This Order does not constitute a waiver or modification of the terms and conditions of the Respondent's NPDES Permit, which remains in full force and effect.

33. This Order does not constitute a waiver or election by EPA to forego any civil or criminal action to seek penalties, fines or other relief as it may deem appropriate under the Act. Be advised that section 309(d) of the Act, 33 U.S.C. § 1319(d), authorizes the imposition of civil penalties of up to \$32,500 per day for each violation of the Act, while section 309(c) of the Act, 33 U.S.C. § 1319(c), authorizes fines and imprisonment for willful or negligent violations of the Act.

34. Nothing in this Order shall be construed to preclude the institution of further action under section 309 of the Act, 33 U.S.C. § 1319, for those violations cited herein or to relieve Respondent from responsibilities, liabilities, or penalties established pursuant to any applicable Federal and/or State law or regulation.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION 8
Complainant.

Date:

March 29, 2006


Carol Rushin

Assistant Regional Administrator
Office of Enforcement, Compliance,
and Environmental Justice

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the original and one copy of the ORDER FOR COMPLIANCE was hand-carried to the Regional Hearing Clerk, EPA Region 8, 999 18th Street, Suite 300, Denver, Colorado, and that true copies of the same were sent as follows:

Via certified mail to:

Jim Rearden
Public Works Director
City of Great Falls
P.O. Box 5021
Great Falls, MT 59403

3/29/2006

Date

Judith M. McTernan for
Juanita Walston

Attachment A

hydrogen sulfide, ppm measured inside the sewer line

manhole	09/28/05	10/6/2005	10/13/2005	10/19/2005*	10/20/2005	10/26/2005	11/2/2005	11/10/2005	11/17/2005	12/6/2005
4049	100.0	6	6	248	248	0	15	36	0	1
4041	270.0	3	1	200	200	0	21	160	0	0
4027	400.0	11	21	179	179	0	21	60	1	0
4071	200.0	-	-	229	229	1	25	32	0	0
4069	600.0	300	20.3	200	200	1	47	142	27	0
4068	500.0	225	50	200	200	1	77	186	98	0
4067	500.0	150	140	140	140	2	63	186	168	0

hydrogen sulfide, ppm measured inside the sewer line

manhole	12/7/2005	12/8/2005	12/12/2005	12/13/2005	12/16/2005	12/19/2005	12/20/2005	12/21/2005	12/28/2005
4049	0	2	12	2	35	69	234	10	25
4041	0	0	7	2	63	45	235	9	21
4027	0	0	2	2	52	9	33	6	32
4071	0	0	2	2	1	2	6	2	63
4069	0	1	2	2	1	2	2	2	40
4068	0	1	2	2	1	2	2	2	210
4067	0	0	2	2	1	0	2	2	128

hydrogen sulfide, ppm measured inside the sewer line

manhole	12/30/2005	1/3/2006	1/4/2006	1/5/2006	1/9/2006	1/10/2006	1/12/2006	1/17/2006	1/18/2006	1/19/2006
4049	26	44	10	22	163	10	10	6	0	0
4041	14	55	2	4	188	10	10	6	0	0
4027	6	63	2	10	118	7	7	2	0	0
4071	2	48	2	8	51	2	2	2	0	0
4069	2	21	2	-	25	2	2	2	0	0
4068	2	48	2	-	37	2	2	1	0	0
4067	-	33	1	14	28	2	2	1	0	0

Attachment A

hydrogen sulfide, ppm measured inside the sewer line

manhole	1/23/2006	1/24/2006	1/25/2006	1/30/2006	1/31/2006	2/2/2006	2/6/2006	2/7/2006	2/8/2006	2/13/2006
4049	1	2	2	1	2	1	18	154	189	1
4041	1	1	2	1	1	0	11	187	152	1
4027	1	1	1	1	6	0	6	162	159	1
4071	1	1	1	1	2	0	3	1	51	1
4069	1	1	1	1	2	0	2	1	29	1
4068	1	1	1	1	1	0	2	0	18	0
4067	1	1	1	1	1	0	2	1	23	0

hydrogen sulfide, ppm measured inside the sewer line

manhole	2/14/2006	2/15/2006	2/21/2006	2/22/2006	2/23/2006	2/27/2006	3/1/2006	3/2/2006	3/6/2006	3/7/2006
4049	371	20	65	84	2	101	118	278	15	35
4041	340	45	45	116	89	165	154	284	43	35
4027	271	17	41	94	179	75	94	243	1	32
4071	121	9	28	72	210	11	56	95	1	35
4069	55	2	22	79	207	7	71	66	1	27
4068	56	2	15	73	206	7	94	57	1	32
4067	86	2	9	41	211	7	58	54	1	21

hydrogen sulfide, ppm measured inside the sewer line

manhole	3/8/2006	3/13/2006	3/14/2006	3/15/2006	3/20/2006	3/22/2006	3/23/2006
4049	177						
4041	135						
4027	65						
4071	169	0	46	59	167	11	74
4069	161	2	34	33	137	2	32
4068	135	1	36	27	125	2	34
4067	101	2	28	32	140	2	38